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Note verbale dated 5 June 2018 from the Permanent Mission of Estonia to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Estonia to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and hereby submits the report of Estonia on the implementation of the restrictive measures imposed by the Security Council in its resolution 2397 (2017) (see annex).

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Annex to the note verbale dated 5 June 2018 from the Permanent Mission of Estonia to the United Nations addressed to the Chair of the Committee

Report of Estonia on the implementation of Security Council resolution 2397 (2017)

Estonia and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2397 (2017) by adopting the following common measures:[1]

(a) Council Implementing Decision (CFSP) 2018/16 of 8 January 2018 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of additional persons and one additional entity under the travel ban and/or asset freeze;

(b) Council Implementing Regulation (EU) 2018/12 of 8 January 2018 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Implementing Decision (CFSP) 2018/16;

(c) Council Decision (CFSP) 2018/293 of 26 February 2018 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which sets out the commitment of the European Union to implementing Security Council resolution 2397 (2017) by imposing the following measures:

- The European Union had already introduced a full prohibition on the export of crude oil in Council Decision (CFSP) 2017/1860 of 16 October 2017, with the possibility of exemptions for exports for humanitarian purposes if approved in advance, on a case-by-case basis, by the Committee. In Decision (CFSP) 2018/293, it is further specified that the prohibition applies to the direct or indirect supply of all crude oil to the Democratic People's Republic of Korea, whether or not originating in the territories of the member States, including by means of pipelines, rail lines or vehicles;
- The European Union had already introduced a full prohibition on the export of all refined petroleum products in Decision (CFSP) 2017/1860, which included a provision that the export of refined petroleum products could be authorized by the competent authority of a member State for humanitarian purposes under the conditions mentioned in paragraph 14 of resolution 2375 (2017). In Council Decision (CFSP) 2018/293, it is now further specified that the amount of refined petroleum products authorized for export cannot exceed 500,000 barrels per year and that the means of export include pipelines, rail lines and vehicles;
- Prohibition on importing food and agricultural products, machinery, electrical equipment, earth and stone (including magnesite and magnesia), wood and vessels;
- Prohibition on the acquisition of fishing rights from the Democratic People's Republic of Korea;
- Prohibition on exporting all industrial machinery, transportation vehicles, iron, steel and other metals, unless it has been determined by a member State that the

[1] All common measures are published in the *Official Journal of the European Union*.

provision of spare parts is needed to maintain the safe operation of passenger aircraft of the Democratic People's Republic of Korea;

- Obligation to repatriate to the Democratic People's Republic of Korea immediately, and no later than 21 December 2019, all nationals of that country who are earning income in the jurisdiction of a member State and all government safety oversight attachés of the Democratic People's Republic of Korea who are monitoring its workers abroad, unless certain exceptions apply, subject to applicable national and international law;
- Obligation for member States to seize, inspect and impound any vessel in their ports and the power to seize, inspect and impound any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea. Under certain conditions, the provisions for the impounding of vessels shall cease to apply;
- Obligation to cooperate as promptly as possible with another State that has information leading to suspicion that the Democratic People's Republic of Korea is attempting to export illicit cargo and where that other State requests additional maritime and shipping information;
- Prohibition on providing insurance or reinsurance services to vessels identified as being involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless the Committee has determined, on a case-by-case basis, that the vessel is engaged in activities only for livelihood or humanitarian purposes;
- Obligation to deregister any vessel where there are reasonable grounds to believe that the vessel has been involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea;
- Prohibition on providing classification services to vessels identified as being involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless approved in advance by the Committee on a case-by-case basis;
- Prohibition on registering any vessel that has been deregistered by another State unless approved by the Committee in advance, on a case-by-case basis;
- The prohibition on exporting new or used vessels had already been introduced in Council Decision (CFSP) 2017/345;
- Obligation to seize and dispose of items the export of which is prohibited under resolution 2397 (2017);
- Prohibition on satisfying any claim in connection with any contract or transaction the performance of which has been affected by the measures provided for in resolution 2397 (2017);

(d) Council Regulation (EU) 2018/285 of 26 February 2018 amending Council Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Decision (CFSP) 2018/293.

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all States members of the European Union. Under Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC)

No. 329/2007, member States are required to determine the penalties applicable to infringements of the provisions of the Regulations.

The penalties determined by Estonia are set out in the following legislation:

(a) Penal Code,[2] sections 93-1[3] (Failure to apply international sanctions), 421-1 (Illegal carriage of strategic goods or illegal provision of services relating to strategic goods) and 421-2 (Carriage of prohibited strategic goods or provision of services relating to prohibited strategic goods);

(b) International Sanctions Act, [4] sections 22 (Failure to notify of identification of subject of international financial sanction, of taking measures and submission of false information), 23 (Failure to establish procedural rules and procedure for supervision of fulfilment thereof) and 24 (Violation of obligation to preserve data).

Estonia has the following national legislation,[5] under which authorization is required for the sale, supply, transfer or export of arms and related materiel to third countries and for the provision of brokering services and other services related to military activities and which, together with Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP, provides the basis for the enforcement of the arms embargo against the Democratic People's Republic of Korea and the ban on related brokering services:

(a) Strategic Goods Act,[6] in particular section 13 (Application for licence);

(b) Minister for Foreign Affairs Regulation No. 6 of 27 December 2011 concerning the formats of licence applications;[7]

(c) Weapons Act.[8]

The same legislation also prohibits the sale, supply, transfer or export of arms and related materiel to the Democratic People's Republic of Korea and the provision of brokering services and other services related to military activities.[5]

With regard to restrictions on admission (visa ban), Estonia has enacted the following national legislation, which, together with Decision (CFSP) 2016/849 and Council Regulation (EC) No. 539/2001,[9] provides the basis for the refusal of admission and the denial of visa requests:

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[2] *Riigi Teataja*, RT I, 20 May 2016, 2 (latest English translation available at www.riigiteataja.ee/en/eli/ee/530052016001/consolide/current).

[3] Note that, in Estonian legislation, new provisions that were inserted in the act as the result of an amendment are usually indicated by an index number (in superscript) following the paragraph, section or subsection number (e.g., "section 93[1] of the Penal Code"). Another way of indicating new provisions is by inserting a hyphen after the paragraph, section or subsection number (e.g., "section 93-1 of the Penal Code"). Throughout the present document, the latter form is used, in order to avoid confusion with footnotes.

[4] *Riigi Teataja*, RT I 2010, 26, 129 (latest English translation available at www.riigiteataja.ee/en/eli/ee/528062017004/consolide/current).

[5] This legislation should apply to all goods included in the Common Military List of the European Union.

[6] *Riigi Teataja*, RT I, 12 March 2015, 48 (latest available English translation available at www.riigiteataja.ee/en/eli/501022016001/consolide).

[7] *Riigi Teataja*, RT I, 29 December 2011, 145 (no translation available).

[8] *Riigi Teataja*, RT I, 19 March 2015, 19 (latest available English translation available at www.riigiteataja.ee/en/eli/ee/502022016003/consolide/current).

[9] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom.

(a) Obligation to Leave and Prohibition on Entry Act, [10] section 33-1 (Prohibition on entry arising from law or court judgment), paragraph 4;

(b) Government Regulation No. 182 of 27 May 2016 concerning the implementation of restrictive measures against the Democratic People's Republic of Korea.[11]

With regard to the prohibition on providing work authorizations for nationals of the Democratic People's Republic of Korea in the jurisdiction of member States in connection with admission to their territories and the obligation to repatriate to the Democratic People's Republic of Korea all nationals of that country who are earning income, the Government adopted Government Regulation No. 84 of 21 July 2016, [12] on the basis of sections 8 (1) and 9 (2) of the International Sanctions Act. The regulation prohibits the issuing of temporary residence permits for employment to nationals of the Democratic People's Republic of Korea. The Police and Border Guard Board has confirmed that, as of the date of reporting, there were no residence permits or temporary employment permits issued to nationals of the Democratic People's Republic of Korea.

In order to implement the United Nations sanctions listings without delay, the Government adopted Government Regulation No. 156 of 26 October 2017, [13] which provides the legal basis for the implementation of United Nations sanctions during times when the Council of the European Union has not yet updated its corresponding decisions and regulations.

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[10] *Riigi Teataja*, RT I, 6 April 2016, 22 (latest available English translation available at www.riigiteataja.ee/en/eli/ee/522042016003/consolide/current).

[11] *Riigi Teataja*, RT II, 31 May 2016, 2, 182 (no translation available).

[12] *Riigi Teataja*, RT I, 29 November 2017, 4, 84 (no translation available).

[13] *Riigi Teataja*, RT I, 31 October 2017, 10 (no translation available).